

Part 3

Resource Plans and Significant Energy Resource Approval

54-17-301 Review of integrated resource plan action plans.

- (1) An affected electrical utility shall file with the commission any action plan developed as part of the affected electrical utility's integrated resource plan to enable the commission to review and provide guidance to the affected electrical utility.
- (2)
 - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing a process for its review of an action plan.
 - (b) The rules required under Subsection (2)(a) shall provide sufficient flexibility to permit changes in an action plan between the periodic filings of the affected electrical utility's integrated resource plan.

Amended by Chapter 382, 2008 General Session

54-17-302 Approval of a significant energy resource decision required.

- (1) If pursuant to Part 2, Solicitation Process, an affected electrical utility is required to conduct a solicitation for a significant energy resource or obtains a waiver of the requirement to conduct a solicitation under Section 54-17-501, but does not obtain a waiver of the requirement to obtain approval of the significant energy resource decision under Section 54-17-501, the affected electrical utility shall obtain approval of its significant energy resource decision:
 - (a) after the completion of the solicitation process, if the affected electrical utility is required to conduct a solicitation; and
 - (b) before an affected electrical utility may construct or enter into a binding agreement to acquire the significant energy resource.
- (2)
 - (a) To obtain the approval required by Subsection (1), the affected electrical utility shall file a request for approval with the commission.
 - (b) The request for approval required by this section shall include any information required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) In ruling on a request for approval of a significant energy resource decision, the commission shall determine whether the significant energy resource decision:
 - (a) is reached in compliance with this chapter and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (b)
 - (i) is reached in compliance with the solicitation process approved by the commission in accordance with Part 2, Solicitation Process; or
 - (ii) is reached after the waiver of the solicitation process as provided in Subsection 54-17-201(3); and
 - (c) is in the public interest, taking into consideration:
 - (i) whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electrical utility located in this state;
 - (ii) long-term and short-term impacts;
 - (iii) risk;

- (iv) reliability;
 - (v) financial impacts on the affected electrical utility; and
 - (vi) other factors determined by the commission to be relevant.
- (4) The commission may not approve a significant energy resource decision under this section before holding a public hearing.
- (5) Unless the commission determines that additional time to analyze a significant energy resource decision is warranted and is in the public interest, within 120 days of the day on which the affected electrical utility files a request for approval, the commission shall:
- (a) approve the significant energy resource decision;
 - (b) approve the significant energy resource decision subject to conditions imposed by the commission; or
 - (c) disapprove the significant energy resource decision.
- (6) The commission shall include in its order under this section:
- (a) findings as to the total projected costs for construction or acquisition of an approved significant energy resource; and
 - (b) the basis upon which the findings described in Subsection (6)(a) are made.
- (7) Notwithstanding any other provision of this part, an affected electrical utility may acquire a significant energy resource without obtaining approval pursuant to this section if it obtains a waiver of the requirement for approval in accordance with Section 54-17-501.
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules regarding the process for approval of a significant energy resource decision under this section.

Amended by Chapter 374, 2008 General Session

Amended by Chapter 382, 2008 General Session

54-17-303 Cost recovery.

- (1)
- (a) Except as otherwise provided in this section, if the commission approves a significant energy resource decision under Section 54-17-302, the commission shall, in a general rate case or other appropriate commission proceeding, include in the affected electrical utility's retail electric rates the state's share of costs:
 - (i) relevant to the proceeding;
 - (ii) incurred by the affected electrical utility in constructing or acquiring the approved significant energy resource; and
 - (iii) up to the projected costs specified in the commission's order issued under Section 54-17-302.
 - (b)
 - (i) The commission shall, in a general rate case or other appropriate commission proceeding, include in the affected electrical utility's retail electric rates the state's share of the incremental cost relevant to the proceeding that were prudently incurred by the affected electrical utility to identify, evaluate, and submit a reasonable benchmark option, whether or not the benchmark option is selected or becomes operational.
 - (ii) A recoverable cost under Subsection (1)(b)(i) shall be included in the affected electrical utility's project costs for the purpose of evaluating the project's cost-effectiveness.
 - (iii) A recoverable cost under Subsection (1)(b)(i) may not be added to the cost or otherwise considered in the evaluation of a project proposed by any person other than the affected electrical utility for the purpose of evaluating that person's proposal.

- (c) Except to the extent that the commission enters an order under Section 54-17-304, an increase from the projected costs specified in the commission's order issued under Section 54-17-302 shall be subject to review by the commission as part of a rate hearing under Section 54-7-12.
- (2)
 - (a) Subsequent to the commission issuing an order described in Subsection (2)(a)(i) or (ii), the commission may disallow some or all costs incurred in connection with an approved significant energy resource decision if the commission finds that an affected electrical utility's actions in implementing an approved significant energy resource decision are not prudent because of new information or changed circumstances that occur after:
 - (i) the commission's approval of the significant energy resource decisions under Section 54-17-302; or
 - (ii) a commission order to proceed under Section 54-17-304.
 - (b) In making a determination of prudence under Subsection (2)(a), the commission shall use the standards identified in Section 54-4-4.
- (3) Notwithstanding any other provision of this chapter, the commission may disallow some or all of the costs incurred by an affected electrical utility in connection with an approved significant energy resource decision upon a finding by the commission that the affected electrical utility is responsible for a material misrepresentation or concealment in connection with an approval process under this chapter.

Amended by Chapter 374, 2008 General Session

54-17-304 Order to proceed.

- (1)
 - (a) In the event of a change in circumstances or projected costs, an affected electrical utility may seek a commission review and determination of whether the affected electrical utility should proceed with the implementation of an approved significant energy resource decision.
 - (b) In making a determination under this Subsection (1), the commission shall use the standards identified in Subsection 54-17-302(3)(c).
 - (c) Before making a determination under this Subsection (1) the commission:
 - (i) may hold a public hearing; and
 - (ii) shall provide an opportunity for public comment.
- (2) Unless the commission determines that additional time is warranted and is in the public interest, within 60 days of the day on which the affected electrical utility files a request for commission review and determination under this section, the commission shall:
 - (a) issue an order:
 - (i) determining that the affected electrical utility should proceed with the implementation of the significant energy resource decision;
 - (ii) making findings as to the total projected costs for construction or acquisition of the approved significant energy resource; and
 - (iii) stating the basis upon which the findings described in Subsection (2)(a)(ii) are made; or
 - (b) issue an order determining that the affected electrical utility should not proceed with the implementation of the significant energy resource decision.
- (3) If the commission determines that the affected electrical utility should proceed with the implementation of the approved significant energy resource decision, the commission shall, in a general rate case or other appropriate commission proceeding, include in the affected electrical utility's retail electric rates the state's share of costs:

- (a) relevant to that proceeding;
 - (b) incurred by the affected electrical utility in constructing or acquiring the approved significant energy resource; and
 - (c) up to the projected costs as specified in the commission's order issued under Subsection (2)(a).
- (4) If the commission determines that the affected electrical utility should not proceed with the implementation of the approved significant energy resource decision, the commission shall, in a general rate case or other appropriate commission proceeding, include in the affected electrical utility's retail electric rates the state's share of costs:
- (a) relevant to that proceeding; and
 - (b) incurred by the affected electrical utility in constructing or acquiring the approved significant energy resource before issuance of a determination not to proceed, including any prudently incurred costs of terminating the approved significant energy resource decision.
- (5) A commission order under this section not to proceed with the implementation of a significant energy resource may not prejudice:
- (a) the right of an affected electrical utility to:
 - (i) continue to implement the significant energy resource decision; and
 - (ii) seek recovery of costs incurred after a determination not to proceed in a future rate proceeding; or
 - (b) the right of any other party to support or oppose recovery of costs sought under Subsection (5)(a)(ii).
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules regarding the process for the commission's review and determination on a request for an order to proceed under this section.

Amended by Chapter 382, 2008 General Session